

Charles L. Howard (admitted *pro hac vice*)  
Keenan Cohen & Howard P.C.  
One Pitcairn Place  
165 Township Line Rd.  
Jenkintown, PA 19046  
(215) 609-1110

and

Barry N. Gutterman  
Gutterman & Associates  
The Lincoln Building  
60 East 42<sup>nd</sup> Street, 46<sup>th</sup> Floor  
New York, NY 10165

*Attorneys for Defendants*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SOMPO JAPAN INSURANCE COMPANY OF  
AMERICA, and SOMPO JAPAN INSURANCE,  
INC.

*Plaintiffs,*

- against -

NORFOLK SOUTHERN RAILWAY COMPANY,  
NORFOLK SOUTHERN CORPORATION, and  
THE KANSAS CITY SOUTHERN RAILWAY  
COMPANY

*Defendants.*

**NO.: 07 CIV. 2735**

JUDGE CHIN

**DECLARATION OF CHARLES L.  
HOWARD IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

I, Charles L. Howard, declare that I am a principal of Keenan Cohen & Howard P.C.,  
attorneys for defendants Norfolk Southern Railway Company, Norfolk Southern Railway  
Corporation, and the Kansas City Southern Railway Company.

1. Attached hereto as Exhibit A is true and accurate copy of excerpts of the Deposition Transcript of Takeshiyo Yokoo identified in Defendants' Concise Statement of Material Facts Pursuant to Local Rule 56.1 ("Defendants' Statement of Material Facts").

2. Attached hereto as Exhibit B is a true and accurate copy of the Subrogation Receipt of Kubota Corporation ("Kubota") pertaining to the Kubota Shipment identified in Defendants' Statement of Material Facts.

3. Attached hereto as Exhibit C is a true and accurate copy of excerpts of the Deposition Transcript of Kazuhiro Aikoh identified in Defendants' Statement of Material Facts.

4. Attached hereto as Exhibit D is a true and accurate copy of Plaintiffs' Responses to Defendants' for Admissions identified in Defendants' Statement of Material Facts.

5. Attached hereto as Exhibit E is a true and accurate copy of Plaintiff's Rule 26(a) Disclosures identified in Defendants' Statement of Material Facts.

6. Attached hereto as Exhibit F is true and accurate copy of excerpts of the Deposition Transcript of Yukio Hoover identified in Defendants' Statement of Material Facts.

7. Attached hereto as Exhibit G is true and accurate copy of excerpts of the Deposition Transcript of Yosiyuki Kato identified in Defendants' Statement of Material Facts.

8. Attached hereto as Exhibit H is true and accurate copy of excerpts of the Deposition Transcript of Yosiyuki Iwaki identified in Defendants' Statement of Material Facts.

9. Attached hereto as Exhibit I is a true and accurate copy of the Letter of Subrogation pertaining to the Hoshizaki Electric Company Shipment identified in Defendants' Statement of Material Facts.

10. Attached hereto as Exhibit J is a true and accurate copy of the Letter of Subrogation pertaining to the Canon Corporation (“Canon”) pertaining to the Canon Shipment identified in Defendants’ Statement of Material Facts.

11. Attached hereto as Exhibit K is a true and accurate copy of the Letter of Subrogation pertaining to the Unisa Corporation (“Unisa”) pertaining to the Unisa Shipment identified in Defendants’ Statement of Material Facts.

12. Attached hereto as Exhibit L is a true and accurate copy of excerpts of the Deposition Transcript of Patrick Davidson identified in Defendants’ Statement of Material Facts.

13. Attached hereto as Exhibit M is a true and accurate copy of an excerpt from the City of Tsukuba, Japan website. This information was obtained from the following webpage on March 25, 2009: <http://www.tsukubainfo.jp/>; identified in Defendants’ Statement of Material Facts.

14. Attached hereto as Exhibit N is a true and accurate copy of Defendants’ Rule 30(b)(6) deposition notice identified in Defendants’ Statement of Material Facts.

15. Plaintiffs have not disclosed any experts to testify on their behalf on any issue in the lawsuit.

By: /s/ Charles L. Howard  
Charles L. Howard

Dated: March 31, 2009

**CERTIFICATE OF SERVICE**

I, the undersigned counsel, hereby certify that on March 31, 2009 a true and correct copy of the foregoing Declaration of Charles L. Howard in Support of Defendants' Motion for Summary Judgment was filed electronically. Notice of this filing will be sent to the following party, listed below, by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

David T. Maloof, Esquire  
Thomas M. Eagan, Esquire  
MALOOF BROWNE & EAGAN LLC  
411 Theodore Fremd Avenue, Suite 190  
Rye, New York 10580-1411

*Attorneys for Plaintiffs*

By: /s/ Charles L. Howard  
Charles L. Howard